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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/822,961	03/30/2001	Mark Bungler	SFTC-01004US0	8324
28554 7590 04/19/2006				
VIERRA MAGEN MARCUS & DENIRO LLP				
575 MARKET STREET SUITE 2500				
SAN FRANCISCO, CA 94105				
EXAMINER				
FISCHER, ANDREW J				
ART UNIT		PAPER NUMBER		
3627				

DATE MAILED: 04/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/822,961

Applicant(s)

BUNGER ET AL.

Examiner

Andrew J. Fischer

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) 11-27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Acknowledgements

1. Applicants' amendment filed January 17, 2006 is acknowledged. Accordingly, claims 1-27 remain pending.
2. Claims 11-27 were withdrawn from further consideration pursuant to 37 C.F.R. §1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made without traverse in the reply filed on February 15, 2005.
3. This Office Action, the "First Final Office Action" is given Paper No. 20060417.
4. All references in this Office Action to the capitalized versions of "Applicants" refers specifically the Applicants of record. References to lower case versions of "applicant" or "applicants" refers to any or all patent "applicants." Unless expressly noted otherwise, references to "Examiner" in this Office Action refers to the Examiner of record while reference to or use of the lower case version of "examiner" or "examiners" refers to examiner(s) generally.
5. This Office Action is written in OACS. Because of this, the Examiner is unable to control formatting, paragraph numbering, font, spelling, line spacing, and/or other word processing issues. The Examiner sincerely apologies for these errors.

Claim Rejections - 35 USC §103

6. The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office Action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-10 are rejected under 35 U.S.C. §103(a) as being unpatentable over Kliger et. al. (U.S. 7,028,072 B1) (“Kliger”) in view of Chen (U.S. 5,590,197); Muller’s Desktop Encyclopedia of the Internet (“Muller”) and “Gralla’s How the Internet Works (“Gralla”). Kliger discloses the claimed invention including: transferring from a user processing device (the user’s computer which is e.g. a desktop computer which is connected to the internet and displaying web page 200) a user identification value (identifier stored on the user’s computer, C2, 3rd paragraph); Kliger does not directly disclose purchasing at a merchant web site (i.e. selecting the merchant link).

Chen teaches the how a user shop at a merchant web site just as they normally would. Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Kliger as taught by Chen to include purchasing products via the Internet. Such a modification would have helped increase sales by allowing for a very convenient payment. Because Both Kliger and Chen discloses using the Internet, Muller and Gralla are cited simply to show the inherent features of the Internet.

8. Claims 1-10 are rejected under 35 U.S.C. §103(a) as being unpatentable over Kliger et. al. (U.S. 7,028,072 B1) (“Kliger”) in view of Cameron (U.S. 5,832,459) Muller, and Gralla. Kliger discloses as discussed above but does not directly disclose purchasing at a merchant web site.

Cameron teaches the how a user shops at a merchant web site just as they normally would. Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Kliger as taught by Cameron to include allowing payments via credit card. Such a modification would have helped increase sales by allowing for

a very convenient payment. Because Both Kliger and Chen discloses using the Internet, Muller and Gralla are cited simply to show the inherent features of the Internet.

Response to Arguments

9. Applicants' arguments with respect to the claims have been considered but are moot in view of the new grounds of rejection.

Conclusion

10. Applicants' amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, This action is made final. See MPEP §706.07(a). Applicants are reminded of the extension of time policy as set forth in 37 C.F.R. §1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 C.F.R. §1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. References considered pertinent to Applicants' disclosure are listed on form PTO-892. All references listed on form PTO-892 are cited in their entirety.

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12. Unless expressly noted otherwise by the Examiner or other USPTO official, the following four (4) citations to the Manual of Patent Examining Procedure (“MPEP”) apply to this Office Action *and* any future office action(s), communication(s), or other correspondence provided by the USPTO: MPEP citations to Chapter 2300 are from the MPEP 8th Edition, Rev. 4, October 2005; citations to Chapters 200-900, 1200-1400, and 1700-1900, 2100, 2200, 2600 are from the MPEP 8th Edition, Rev. 3, August 2005. MPEP citations to Chapters 100, 1000, 1100, 1500, 2000, 2500, and 2700 are from the MPEP 8th Edition, Rev. 2, May 2004. MPEP citations to Chapters 1600, 2300, 2400 are from MPEP 8th Edition, August 2001.

13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

14. The Examiner maintains his position that Applicants are not their own lexicographer. The Examiner maintains his position regarding functional language. The Examiner maintains his position that Applicants have not recited any product-by-process claims.

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14. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Andrew J. Fischer whose telephone number is (571) 272-6779.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

A handwritten signature in cursive script that reads "A. J. Fischer" followed by the date "4/17/06" written in a similar cursive style.

Andrew J Fischer
Primary Examiner
Art Unit 3627

AJF
April 17, 2006